IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 248 OF 2005
IN
WRIT PETITION NO. 10364 OF 2004

PREMCHAND SHOBHAGMAL MODI .. APPELLANT

Versus

MRS. SHAH NAFIS HABIBUL HAQUE .. RESPONDENTS

Mr. R. M. Sharma i/b A.N. Nasikwala for appellant

None for respondent.

CORAM:-SMT. RANJANA DESAI &
D.B. BHOSALE, JJ.

DATED:- 9/1/06

P.C.

. Mr. R.N. Sharma holding for Mr. Nasikwala states that the petition be adjourned as Mr. Nasikwala is not available today. We are unable to adjourn this matter.

2. The title of the petition itself states that it is a petition under Article 227 of the Constitution of India hence obviously a Letters Patent Appeal ("LPA" for short), against the order passed therein is not maintainable. Even otherwise on merits, we

do not think that there is any need to interfere with the impugned order because in the petition the petitioner has challenged the order passed by the trial court setting aside the ex parte decree passed against the respondent. That petition was not entertained. There is no failure on justice. Hence L.P.A is rejected.

3. Needless to say that civil application is also dismissed.

(SMT. RANJANA DESAI,J.)

(D. B. BHOSALE, J.)